



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, September 9, 2010

9:00 A. M.

Assembly Hearing Room #444

State Capitol

Sacramento, California 95814

AGENDA

For questions regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or by facsimile at (916) 445-0738. This Notice and associated staff reports can be accessed electronically at the SMGB's Internet web site at: <http://www.consrv.ca.gov/smgb/> (note: Agenda reports should be available electronically approximately one week prior to the scheduled meeting/hearing date).

The SMGB requires that all lengthy comments be submitted in writing in advance of the meeting date where this matter is to be decided. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office located at 801 K Street, Sacramento, CA, 95814, no later than 5:00 P.M., 15 calendar days prior to the scheduled meeting date, and must identify the Agenda Item to which it relates. For written materials in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 15 copies. The SMGB will not reproduce these types of documents. Comments on Agenda Items will be accepted by electronic mail, and are subject to the same conditions set forth for other written submissions.

New submittals received after 15 calendar days prior to the scheduled meeting date will be marked as late, and the SMGB will decide whether new submittals will be considered or not during the public hearing. Late submittals, received by the SMGB at least 48 hours prior to the scheduled meeting, will be included in a late document submittal listing. Late submittals, received after 48 hours prior to the scheduled meeting, will not be included on the late document submittal list. The SMGB would accept a two-page written summary of testimony, or final comments based on, and limited to, review

of the SMGB's packet and/or Executive Officer's report, at the time of the public hearing. Such two-page summaries would be included as part of the administrative record before the SMGB. This policy does not apply to quasijudicial proceedings (i.e., appeals, petitions, etc.) where administrative procedures for the submittal of documents are set forth in statute and regulation.

Individuals are responsible for presenting their own projects at the meeting.

[NOTE: Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting.]

I. Call to Order (Garner)

II. Pledge of Allegiance

III. Roll Call and Declaration of a Quorum

The meeting was called to order at 9:00 A. M. by Chairman Garner, with Members Tepel and Lund absent, and a quorum was declared.

IV. Director's Report (Chernow, Department of Conservation) [Information]

Acting Director Derek Chernow reported on the following:

- DOC has sponsored two bills this legislative session both forwarded to the Governor's office for signature: AB 2761 and AB 2435. AB 2761 (Chesbro) is a Natural Resources Committee bill that would clarify authority of CGS to contract with various government and non-government entities for geological services. AB 2435 (Tran) will strengthen procedural safeguards and ensure ample protection of due process rights for oil, gas, and geothermal well operators subject to enforcement orders issued by the Division of Oil, Gas, and Geothermal Resources (DOGGR).
- Watershed coordinator grant solicitations are posted. DOC's Division of Land Resource Protection is administering the grants and conducting a series of workshops throughout the state.
- A meeting was held between the California Recovery Task Force, and OMR, CGS and the Acting Director, to brief the task force on various ARRA contracts. DOC has three stimulus-funded projects. Two abandoned mines projects within OMR, and a Long Valley caldera mapping project within CGS.
- DOC's draft budget Change Proposals (BCPs) have been forwarded to the Natural Resources Agency.



- **State Geologist's Report (Parrish) [Information]**

Dr. John Parrish, State Geologist and Director of the California Geological Survey, reported on the following activities:

- CGS will be hosting the upcoming State Mapping Advisory Panel meeting on September 16.
- State Geologist Parrish will be making a presentation on September 23 to the California Construction and Industrial Materials Association (CalCIMA) annual education conference in mid-October. The presentation will be on the history of CGS.
- A status of the current efforts to remove serpentine as the state rock, and possibly replace it with another was provided. The current bill, AB 624, being proposed by California State Senator Gloria Romero does not propose a replacement.
- In regards to CGS personnel, ten have retired over the past year representing an average of about 240 years of experience with two on the horizon reflecting another 65 years before end of year.
- CGS will offer guidance and assistance with a remote-operated sub-sea vehicle built and operated by the University of Illinois. The vehicle funded by the National Science Foundation will be used to perform geological and biological tests at Lake Tahoe before being assigned to Antarctica. CGS has expertise in geologic mapping onshore and faults on the floor of Lake Tahoe. Interest has been expressed by National Geographic. The tests are anticipated to occur in October.

- **Office of Mine Reclamation Report (O'Bryant) [Information]**

Dennis O'Bryant, Assistant Director, Office of Mine Reclamation (OMR), reported on the following activities:

- A search warrant was pursued for access to a surface mine site located in Sacramento County and site visit made by OMR staff albeit with restrictions. Another search warrant is being pursued for another site visit.
- Initiated work on AB 2098 regulations and OMR will be taking the lead in drafting regulations and will have language for the SMGB's consideration by December. Member Licari offered consideration by OMR to have preliminary discussion with industry to avoid pitfalls and address fundamental concerns early on in the process.
- A summary of a meeting between the County of Santa Clara and OMR was held to discuss the Hanson Permanente Quarry, and associated compliance and scheduling issues. Chairman Garner expressed interest in the County being monitored and would be interested hearing back from OMR should their overall performance become lax.
- Beth Henderson, Botanist with OMR, was recognized as Employee of the Month for the Department of Conservation.

V. Chairman's Report (Garner) [Information]

No report was provided.



VI. Executive Officer's Report (Testa) [Information]

Executive Officer Stephen Testa summarized the following recent and upcoming activities of the SMGB:

- Two designation considerations requiring regulatory rulemaking will be before the SMGB in October and November; one for the Palm Springs Production-Consumption Region and the other for the San Bernardino Production-Consumption Region.
- On August 4, 2010, a China delegation from the China University of Mining and Technology was hosted by the Executive Officer, and a presentation on the history of SMARA was provided by Jim Pompy with OMR, and mineral conservation by the Executive Officer.
- Three Low Gross Exemption appeals were received, of which one was accepted and will be heard by the SMGB in October.
- One Reclamation Plan appeal was received for Mosler Rock Products located in Ventura County. This matter will be likely being heard later this year.
- Two classification petitions have been received and subsequent accepted; one for Slaughter House Canyon located in San Diego County, and the other is Barton Ranch-Milgate Quarry, located in Sacramento County.
- A presentation by the Executive Officer on the History of the SMGB in the development of the state's mineral resources will be presented at the CalCIMA annual education conference scheduled for September 22-24 in San Diego.
- Recognition of distinguished service will be presented to Gary Taylor, geologist with CGS, for his contributions during 38 years of service.

VII. Ex-Parte Communication Disclosure [Information]

[Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.]

- Member Licari noted a discussion with Dave Carson pertaining to Santa Cruz County and scheduling manners which have already been addressed by the Executive Officer, and a paper will also be presented at the upcoming CalCIMA meeting.

VIII. Good of the Meeting [Information]

[This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the SMGB should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman.]

- Leana Mueller representing Sutter County expressed concerns pertaining to the recent OMR Lead Agency Review Unit (LART) report on Sutter County. Such concerns as expressed in their correspondence dated July 8 and July 20, 2010, evolved around lack of goals of the LART, inclusions of findings that are related to action or lack of action for elements that are not the responsibility of the County under SMARA, noted errors that were not provided to the County, and lack of clarity as to whether the review process is complete or not, among others.
- Rick Churches expressed his dissatisfaction and displeasure with OMR pertaining to three search warrants set forth by OMR, inadequate characterization of the site, and lack of preparedness and adequate safety equipment when on site, among other issues related to the Schneider Historic Mine located in Sacramento County, and requested that this matter be before the SMGB at its next regular business meeting.



- Jay Schneider associated with the Schneider Historic Mine also expressed displeasure with the enforcement actions being taken by OMR, and how his site has been characterized.

IX. Consent Items [Action]

[All the items appearing under this section will be acted upon by the SMGB by one motion and without discussion; however, any Board member wishing to discuss a particular item may request the Chairman to remove the item from the Consent Calendar and consider it separately under Continued Business or New Business.]

1. Approval of Minutes, June 10, 2010, Regular Business Meeting.

Board Member Lundburg moved to approve the minutes. Board Member Licari seconded and the motion carried with a unanimous voice vote.

2. Approval of Minutes, July 8, 2010, Regular Business Meeting.

This agenda item was continued.

3. Approval of an Interim Management Plan for the Marysville Facility (CA Mine ID #91-58-0019), Teichert Aggregates (Operator), Lillie Noble (Agent), County of Yuba.

Board Member Lundburg moved to approve the Interim Management Plan. Board Member Licari seconded and the motion carried with a unanimous voice vote.

4. Approval of a Revised Financial Assurance Cost Estimate for the Marysville Facility (CA Mine ID #91-58-0019), Teichert Aggregates (Operator), Lillie Noble (Agent), County of Yuba.

Board Member Lundburg moved to approve the revised financial assurance cost estimate. Board Member Licari seconded and the motion carried with a unanimous voice vote.

5. Approval of an Interim Financial Assurance Cost Estimate for Santa Paula Rock (CA Mine ID #91-56-XXXX), Al Bitetti (Agent), Santa Paula Rock, Gravel & Sand, LLC. (Operator), City of Santa Paula.

Executive Officer Testa noted that in a complaint received in April 2010, alleged unpermitted surface mining activities were being performed within the jurisdiction of the City of Santa Paula. The SMGB is the SMARA lead agency for the City of Santa Paula. In the late 1990s, it was determined by the SMGB that the mining ordinance was deficient. The City did not have any surface mining operations within its jurisdiction at the time. A mining ordinance was adopted by the City in 2005 but never certified by the SMGB. Following a preliminary review of the uncertified ordinance, deficiencies were noted, thus revision is required prior to the ordinance being considered for certification by the SMGB. In the meantime, the SMGB currently serves as the SMARA lead agency. The SMGB is considering approval of the Interim FACE for the amount of \$887,168 for the Santa Paula Rock surface mining operation, located in the City of Santa Paula.

- Mr. Tom Henry with Stoel Rives raised the reasons and need for reevaluation of the SMGB's previous decision as expressed in his recent correspondence.
- Mr. Albertini Jr., the operator of the surface mine, relayed the status of his reclamation plan.



Board Member Wyatt moved to approve the Interim Financial Assurance Cost Estimate. Board Member Licari seconded and the motion carried with a unanimous voice vote, with Member Baca abstain.

X. Continued Business [Action]

[These business items have been continued from a previous meeting/hearing.]

6. Consideration for Issuance of a 45-Day Notice to Correct Deficiencies to the County of Sierra.

Executive Officer Testa stated that a review of the overall performance of the County of Sierra as a SMARA lead agency initiated with a complaint received in August 2008. Based on review of the SMARA database and mine files, the County currently produces sand and gravel, rocks, dimension stone and gold (placer and lode). The County has 10 mines within its jurisdiction, of which 6 are currently active, 3 are idle, and 3 are closed with no intent to resume operations. A status comparison for 2008 and 2009 was provided, and areas of improvement identified. Several options are before the SMGB based on the administrative record before it today. The Executive Officer noted that the County has made significant progress in implementing its SMARA program and is recommending that the SMGB not issue a 45-Day Notice to Correct Deficiencies.

- Mr. Tim Beal, Planning Director with the County of Sierra, expressed his satisfaction with the Executive Officer's report, and appreciated the efforts of the Executive Officer who was very receptive, provided ample time to discuss various issues, and allowed for an accurate report and summation as to where the County is in its implementation of SMARA.
- Member Licari noted his appreciation with the County taking the needed steps to bring its SMARA program current.

Board Member Baca moved to not issue a Notice. Board Member Lane seconded and the motion carried with a unanimous voice vote.

7. Status Report on the City of Lake Elsinore Lead Agency Program Pursuant to the Surface Mining and Reclamation Act (SMARA).

Executive Officer Testa stated that in November 2009, the SMGB received a public complaint pertaining to certain surface mining operations located within the jurisdiction of the City of Lake Elsinore (City). The complaints were forwarded to the Department of Conservation, Office of Mine Reclamation (OMR). OMR performed a site visit in March 2010, and presented a summary of its site visit at the SMGB's July 10, 2010, regular business meeting. At such meeting, the SMGB expressed concern based on information provided by OMR, and requested that OMR provide more in-depth information, including the inspection reports that the city had been filing during the time houses were being built within the boundaries of the mining footprint, and photographs taken during inspections and site visits performed by OMR, and OMR's commentary on such reports. The City of Lake Elsinore has requested additional time for submittal of information as noted in their letter dated August 6, 2010.

- Dennis O'Bryant summarized the current status, and noted that several requests have been made to the City, and awaiting a response.
- Member Baca recommended that this matter be revisited at its next regular business meeting.



No action was taken by the SMGB.

XI. New Business [Action]

8. Acceptance of Regulatory Language for Designation of Mineral Resources Areas of Statewide or Regional Significance for the Bakersfield Production-Consumption Region, County of Kern, California.

Executive Officer Testa stated that at its October 8, 2009, regular business meeting, the SMGB accepted CGS Special Report 210 which updated information previously presented in an earlier classification report. The SMGB pursuant to PRC Section 2790 may by regulation adopted after a public hearing, designate specific geographical areas of statewide or regional significance and specify the boundaries thereof. The SMGB based on recommendations from the SG and public input, prioritizes areas to be classified and/or designated. The State Geologist has recommended 62 individual sectors or sub-sectors for designation consideration. On November 9, 2009, the SMGB accepted the State Geologist's recommendations and directed the Executive Officer to schedule a public hearing to receive comments. The public comment period was from July 1, 2010 to August 30, 2010, which included a public hearing held to receive comments on July 29, 2010. No comments were received during this period or during the scheduled hearing. The SMGB is considering accepting the regulatory language and directing the Executive Officer to commence the rulemaking process. This is the first designation to be set forth in regulation since 1990.

- John Clinkenbeard, CGS, summarized information pertaining to the areas being designated.

Board Member Lane moved to accept the proposed regulatory language. Board Member Baca seconded and the motion carried with a unanimous voice vote.

9. Acceptance of a Petition for Classification of Mineral Lands, Granite Construction Company Power House Aggregate Project, County of Butte.

Executive Officer Testa indicated that Yasher Saber, on behalf of Granite Construction Company, submitted a petition dated June 26, 2010, for mineral land classification of 500 acres of land referred to as the Power House Aggregate Project, located about 7 miles SW of the City of Oroville in Butte County. The petitioner also provided \$5,000 of which \$1,000 dollars were used by CGS to perform a preliminary review. Based on a preliminary review, the State Geologist concluded that the material will likely meet the quality specifications for Portland Concrete Cement aggregate, and preliminary calculations based on info provided by the petitioner indicates the parcel contains aggregate resources in excess of the threshold value of \$17,157,910 (2010 dollars), as required for MRZ-2. The petitioner will, should the SMGB accept the petition, provide CGS an additional \$12,500 dollars for CGS to complete the full classification study. Any unused funds will be returned to the petitioner. The SMGB is considering accepting the petition.

Board Member Baca moved to accept the classification petition. Board Member Licari seconded and the motion carried with a unanimous voice vote.

10. Acceptance of California Geological Survey's Special Report 209 on Update of Mineral Land Classification for Portland Cement Concrete-Grade Aggregate in the San Gabriel Valley Production-Consumption Region, Los Angeles County, California.

Executive Officer Testa indicated that the report before the SMGB updates information previously published in 1982. Seven mines among five operators producing Portland Cement Concrete (PCC) grade aggregate exist within this region. Over the next 50 years, through 2058, an estimated



911 million tons will be consumed, of which 638 million tons will be PCC quality. About 27 percent, or 1,234 acres, of the 4,642 acres of land designated by the SMGB in 1984 has been lost to land uses incompatible with mining – that equates to 435 million tons of PCC aggregate. Another 406 million tons have been depleted due to aggregate mining. This results in the reduction of aggregate resources by 35 percent (2,402 million tons to 1,561 million tons). Four additional resource areas totaling 281 acres and containing 311 million tons of aggregate resources have been identified during the recent update. The SMGB is considering accepting the CGS SP 209.

- John Clinkenbeard, CGS, summarized information pertaining to the areas being classified.

Board Member Lane moved to accept CGS Special Report 209. Board Member Licari seconded and the motion carried with a unanimous voice vote.

11. Discussion of Regulatory Considerations Pertaining to the AB 3098 List. Executive Officer Testa indicated that OMR periodically publishes a list of mines regulated under SMARA that meet provisions set forth under California's Public Resources Code, Section 2717(b). This list is generally referred to as the AB 3098 List, in reference to the 1992 legislation, that established it. Sections 10295.5 and 20676 of the Public Contract Code preclude mining operations that are not on the AB 3098 List from selling sand, gravel, aggregates, or other mined materials, to state or local agencies. Although what is required to be on the list is clearly spelled out, procedures for removal or subsequent reinstatement to the list are less clearly defined. The SMGB at its July 2010 regular business meeting directed this matter to the Policy and Legislation Committee, and for the Executive Officer to provide a draft of regulatory language addressing the matter of due process for the Committee's consideration, since OMR stated that the DOC would not be in a position to comment or participate until certain pending litigation has completed its course.

- Dennis O'Bryant, OMR, indicated as part of his aforementioned information report that OMR would take the lead in preparing proposed regulations.

No action was taken by the SMGB.

XII. Special Reports and Department Presentations [Possible Action]

[Based on these Reports, the Chair may instruct the SMGB staff to initiate administrative actions.

12. Lead Agency Review Unit (LART) Report on the County of Santa Cruz [OMR]
This agenda item was deferred until the next regular business meeting scheduled for October 14, 2010.

13. Inspection reports pursuant to PRC Section 2774(b) for the following surface mining operations may be presented for SMGB acceptance consideration as being in accordance with the SMGB's requirements:

- Knife River Hallwood Plant (CA Mine ID #91-58-0002), County of Yuba.
- Wheatland Clay Pit (CA Mine ID #91-58-0007), County of Yuba.
- SRI Stringer Pit I (CA Mine ID #91-58-0022), County of Yuba.
- SRI Stringer Pit II (CA Mine ID #91-58-0023), County of Yuba.



- Ella and Platter Borrow Sites (CA Mine ID #91-58-0026), County of Yuba.

Will Arcand, Senior Engineering Geologist and inspector for the SMGB, presented a summary of each inspection report outlined above.

Board Member Baca moved to accept the inspection reports. Board Member Wyatt seconded and the motion carried with a unanimous voice vote.

XIII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee
 - Alquist-Priolo Technical Advisory Committee (Chairperson Tepel)
- Surface Mining and Standards Committee (Chairperson Lund)
- Minerals and Geologic Resources Committee (Chairperson Tepel)
- Policy and Legislation Committee (Chairperson Baca)

No Committee reports were provided.

XIV. Continuing Business [Information]

[This item is provided as an opportunity for any SMGB member to receive information on or any items of continuing interest to the SMGB.]

No continuing business information was discussed.

XV. New Business [Information]

[This item is provided as an opportunity for any SMGB member to bring any item of new business to the SMGB's attention for further discussion and further action.] Items to be discussed:

- Member Baca requested that several items be scheduled for October for the Policy and Legislation Committee, notably, discussion pertaining to due process for AB 3098, SMGB involvement pertaining to designated MRZ-2 mineral lands, and areas where the SMARA process could be streamlined, and duplicity among agencies reduced.
- Member Licari requested that in regards to the Schneider Historic Mine located in Sacramento County, the County should be invited to report to the SMGB regarding the overall status of this surface mining activity at its next regular business meeting, and would like SMGB staff to review the status, if appropriate.

XVI. Executive Session (Closed to the Public) [Possible Action]

[The SMGB will discuss information from its legal counsel on pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.] Items to be discussed:

- a). Brunius vs. SMGB, Case # PC 20010449, El Dorado County Superior Court.
- b). Kibbe Area Planning and Protection Association; Forest Tull vs. SMGB; A. Teichert & Sons, Inc.; and DOES 1010, Case No. 34-2007-00882657-CU-WM-GOS, Sacramento County Superior Court.
- c). Dutra Materials vs. SMGB, Chevron Products Company Real Party in Interest, Case No. N10-0388, Contra Costa Superior Court.
- d). A. Teichert and Sons, Inc. v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000528, Sacramento County Superior Court.



- e). William Calvert, Elfriede Calvert and the Yuba Goldfields Access Coalition v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000530, Sacramento County Superior Court.
- f). North Continent Land and Timber, Inc. vs. SMGB, Department of Conservation, Office of Mine Reclamation, County of Butte Board of Supervisors, Case No. 34-2010-800000542, Sacramento County Superior Court.
- g). An un-named case where there is potentially significant exposure to litigation against the SMGB.

Re-open Regular Business Session, Announce Results of Executive Session

SMGB's Legal Counsel, Deputy Attorney General Marian Moe, announced that the SMGB met in Executive Session and no action was taken.

XVII. Announcements of Future Meetings

October 14, 2010, was announced as the next meeting, and the City of Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 12:45 P.M.

APPROVED



Erin Garner, Chairman



Stephen M. Testa, Executive Officer

